

§ 5501.111 Awards tendered to employees of the National Institutes of Health.

- (a) *Applicability.* This section does not apply to special Government employees.
- (b) *Definitions.* For purposes of this section, *official responsibility* has the meaning set forth in 18 U.S.C. 202(b).
- (c) *Additional limitations on awards to employees of the National Institutes of Health.* The following limitations shall apply to the acceptance by an employee of an award pursuant to 5 CFR 2635.204(d):
 - (1) *Limitations applicable to employees with official responsibility for matters affecting an award donor.* An employee shall not accept a gift with an aggregate market value of more than \$200, or that is cash or an investment interest, that is an award or incident to an award from a person, organization, or other donor that:
 - (i) Is seeking official action from the employee, any subordinate of the employee, or any agency component or subcomponent under the employee's official responsibility;
 - (ii) Does business or seeks to do business with any agency component or subcomponent under the employee's official responsibility;
 - (iii) Conducts activities substantially affected by the programs, policies, or operations of any agency component or subcomponent under the employee's official responsibility; or
 - (iv) Is an organization a majority of whose members are described in paragraphs (c)(1)(i) through (iii) of this section.
 - (2) *Prior approval of awards.—*
 - (i) No employee shall accept an award under 5 CFR 2635.204(d) or this section unless the receipt thereof has been approved in writing in advance in accordance with procedures specified by the designated agency ethics official, or with the concurrence of the designated agency ethics official, the NIH Director or the NIH Director's designee.
 - (ii) Approval shall be granted only upon a determination that acceptance of the award is not prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.
- (d) *Exception.* Notwithstanding the prohibition in paragraph (c)(1) of this section, the NIH Director (or the Secretary, with respect to awards tendered to the NIH Director), with the approval of the designated agency ethics official, may grant a written exception to permit an employee to accept an award otherwise prohibited by this section under the following conditions:
 - (1) There is a determination by the NIH Director (or the Secretary, with respect to awards tendered to the NIH Director) that acceptance of the gift will further an agency interest because it confers an exceptionally high honor in the fields of medicine or scientific research. The following criteria will be considered in making such a determination:
 - (i) The identity of the awarding organization;
 - (ii) The longevity of the awards program;
 - (iii) The source of award funds;

NOTE TO PARAGRAPH (c): In some circumstances cash and other things of value provided in connection with the provision of personal services, including speaking or writing, may be compensation, not a gift. Other ethics rules governing outside activities may restrict receipt of such compensation. See, for example, 5 CFR 2635.807.

- (iv) The size of the monetary component of the award recognition;
 - (v) The identity and credentials of past award recipients;
 - (vi) The degree of publicity attendant to receipt of the award; and
 - (vii) The impact of the substantive contribution being recognized;
 - (2) Absent the prohibition in paragraph (c)(1) of this section, the gift would be permitted under part 2635 of this title; and
 - (3) The designated agency ethics official shall have determined that the application of the prohibition in paragraph (c)(1) of this section is not necessary to ensure public confidence in the impartiality or objectivity with which NIH programs are administered or to avoid a violation of part 2635 of this title.
- (e) *Disposition of improperly accepted awards—*
- (1) *Failure to obtain prior approval.* If an employee accepts an award for which approval is required under paragraph (c)(2) of this section without obtaining such approval, the employee may be required, in addition to any penalty provided by law and applicable regulations, to forfeit the award by returning it to the donor.
 - (2) *Receipt of prohibited award.* If an employee accepts an award prohibited by paragraph (c)(1) of this section, the employee shall be required, in addition to any penalty provided by law and applicable regulations, to:
 - (i) Reject the award and instruct the donor to strike the honoree's name from any list of award recipients;
 - (ii) Remove the recognition from the employee's résumé or curriculum vitae;
 - (iii) Return any tangible indicia of the recognition to the donor; and
 - (iv) Forfeit the award by returning it to the donor.

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